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# SPEECH

OF

## HON. ALBERT G. PORTER, OF INDIANA.

DELIVERED IN THE HOUSE OF REPRESENTATIVES, JUNE 4, 1862.

Mr. PORTER having moved to reconsider the vote by which the bill of the House, (No. 472,) to free from servitude the slaves of rebels engaged in abetting the existing rebellion against the Government of the United States, was rejected, addressed the House as follows:

MR. SPEAKER: My purpose in moving to reconsider the vote by which the bill reported from the Special Committee by the gentleman from Massachusetts [Mr. Eliot] was rejected, was, as I have heretofore explained, to enable me to offer an amendment limiting the slaves to be emancipated, by virtue of the provisions of the bill, to those held by the conspirators who originated this rebellion and those conspicuous classes who have chiefly fostered and encouraged it and been its main pillars and supports. The previous question having been sustained before I had an opportunity to offer an amendment, there was no way left but a resort to this circuitous and awkward method to reach the object which I desired to attain.

The bill reported by the gentleman from Massachusetts provided for an indiscriminate and sweeping liberation of the slaves of all persons who have been implicated, however remotely or indirectly, in this rebellion. It seemed to me to inflict a severe and excessive chastisement upon many who have been drawn into the rebellion by monstrous misrepresentation, misapprehension, and delusion, and who, if the pressure which has overborne them were for a day removed, would instantly and gladly return to their allegiance. But this was by no means the gravest objection. I feared that it would render insecure the right to persons held to service by loyal men, under the solemn protection of the Federal Constitution in the rebellious States, who have under every circumstance of insult, oppression, and humiliation, been faithful to their allegiance. Nor was I less apprehensive that it would tend to create a not ill-founded uneasiness and alarm in the minds of loyal men in the border slaveholding States, who, however much their conduct may have been lightly criticised, have exhibited their devotion to the Union by sending into the field many thousands of brave men to vindicate the insulted honor of our flag and restore the supremacy of the Constitution.

The kind of a bill which, in my judgment, ought to be passed, is one which will deprive of their slaves all those conspicuous criminals who by their official and social positions are the chief support of the rebellion, and without whom it could not continue for an hour.

At the proper time, therefore, if the motion to reconsider shall prevail I will move to recommit the bill to the special committee on confiscation, with instructions to report in its stead the substitute which I send to the clerk's desk to be read.

The CLERK read as follows:

Strike out all after the enacting clause, and insert:

That all right, title interest, and claim whatever, of every person comprehended within the following enumerated classes in and to the service or labor of any other person or persons held to service or labor in any State under the laws thereof, is hereby declared forfeited, and such persons so held to service or labor, commonly called slaves, are hereby declared forever discharged from such service or labor, and to be free men, to wit:

First. Of every person who shall hereafter act as an officer of the army or navy of the rebels in arms against the Government of the United States.

Secondly. Of every person who shall hereafter act as President, Vice-President, member of Congress, judge of any court, cabinet officer, foreign minister, commissioner or consul of the so-called Confederate States of America.

Thirdly. Of every person who shall hereafter act as governor of a State, member of a convention or legislature, or judge of any State court of the so-called Confederate States of America.

Fourthly. Of every person who, having held an office of honor, trust, or profit in the United States, shall hereafter hold an office in the so-called Confederate States of America.

Fifthly, Of every person who shall hereafter hold any office or agency under the government of the so-called Confederate States of America, or under any of the several States of the said confederacy, or the laws thereof, whether such office or agency be national, State, or municipal in its name or character; *Provided*, That the persons thirdly and fifthly above described shall have accepted their appointment or election since the date of the pretended ordinance of secession of the State, or shall have taken an oath of allegiance to the so-called Confederate States.

Sixthly, Of every person, not embraced in the foregoing classes, who, after the passage of this act, being actually, willfully, and without coercion or compulsion engaged in armed rebellion against the Government of the United States, shall not, within sixty days after public warning and proclamation duly given and made, at his discretion, by the President of the United States, lay down his arms and return to his allegiance to the United States.

SEC. 2. *And be it further enacted*, That the President shall appoint one or more commissioners for each State by whose laws persons are held to service or labor for life, to make a list of the names and residences of the persons in the States respectively held to service and labor by any person or persons described in the foregoing section and in the fourth section of an act entitled "An act to confiscate property used for insurrectionary purposes," approved August sixth, eighteen hundred and sixty one, and of the names of the persons claiming to be entitled to such service or labor, which list shall be returned as speedily as may be to the district court of the United States for the district where the persons so held to service or labor may reside; and immediately on such return the district court shall publish the said list of names and an order requiring all persons claiming the service or labor of any of the persons named in the list to appear and show cause why the person or persons owing labor or service should not be discharged therefrom under this act at the next term of said court; and on failure of any one to appear and claim the service or labor of any of the persons reported to owe the same, such person or persons shall be declared free by the court; and on appearance the claimant shall file with his affidavit an affidavit that he has not belonged and does not belong to any of the classes of persons specified in the first section of this act, and that he will forever bear true faith and allegiance to the United States; and if not being comprehended in either of the classes specified in the first, second, third, fourth or fifth specifications of the first section of this act, he shall have been engaged in armed rebellion against the Government of the United States after having received sixty days' warning by proclamation of the President, as above provided, and shall allege that he has been so engaged and in compulsion, he shall, in addition, state in his affidavit the fact and the manner of compulsion, and prove the same prima facie, to the satisfaction of the court; and upon such affidavit having been filed an affidavit made, the attorney for the United States, or any one on behalf of the person held to service or labor, must prove to the satisfaction of the court that the claimant did so engage in armed rebellion without the compulsion alleged, and on failure of such proof the person whose service or labor is claimed shall be restored to the claimant; but on the failure or refusal of any claimant to take an affidavit above required, or to prove the compulsion when it is alleged as an excuse, the court shall declare the person whose service or labor is claimed free from such service or labor; and the court shall give every person so declared free a certificate of the fact under the seal of the court; and such certificate shall be conclusive evidence of the freedom of such person from all service or labor against all persons whatsoever, and in all courts of the States or of the United States; and any person so declared free, if thereafter seized or imprisoned or held in duress in any way by any person under a claim to such person's service or labor, shall be forthwith discharged on habeas corpus by any court or judge of the United States; and the court or judge acting on said writ shall commit for trial for kidnapping the person so holding the said freedom; and on conviction of seizing or holding the said freed man, knowing him to have been declared free by a court of the United States, the person so convicted shall be sentenced to be confined at hard labor in the penitentiary for not less than one year nor more than five years; and any person corruptly swearing falsely in any proceeding under this act shall be guilty of perjury, and liable, on conviction, to the penalties thereof.

SEC. 3. *And be it further enacted*, That any person or persons held to service or labor by persons embraced in the classes specified in the first section of this act, if omitted from the commissioner's list, may, on summary application to the district court of the United States for the district in which he resides, be placed on the list, and shall be entitled to the same proceedings and benefits, and subject and entitled to the same judgments, and to be dealt with in the same manner as if his name had been placed on the list by the commissioners. And if the commissioners cannot complete their lists prior to the first term of the district court of the United States for any district, they shall be allowed to continue and pursue their investigations till they shall be completed and ended; and the compensation of each shall be not more than two thousand dollars.

SEC. 4. *And be it further enacted*, That no person discharged under this act or the act entitled "An act to confiscate property used for insurrectionary purposes," approved August sixth, eighteen hundred and sixty one, nor the descendants of any such person, shall ever be reduced to involuntary servitude by any law or regulation of any State; and every such person shall always be entitled to be discharged by any court or judge of the United States, on habeas corpus, from any such servitude.

SEC. 5. *And be it further enacted*, That whenever any person or persons claiming to be entitled to the service or labor of any other person or persons, commonly called slaves, shall seek to enforce such claim, he or they (as the case may be) shall, in the first instance, and before any order shall be made for the surrender of the person, establish, not only a legal and valid claim to such service or labor, but also make and file an affidavit that he or they have not belonged and do not belong to any of the classes of persons specified in the first section of this act; and it shall be a sufficient defence to any such claim that the claimant has belonged or does belong to either of said classes.

SEC. 6. *And be it further enacted*, That the President of the United States is hereby authorized to negotiate for the acquisition by treaty or otherwise, of lands or countries in Mexico, Central America, or South America, or in the islands of the Gulf of Mexico, or for the right of settlement upon the lands of said countries; and whenever any lands shall have been so acquired, or whenever the right of settlement shall have been so secured in any of said lands, then the President shall cause all the persons who shall have been liberated under the provisions of this act to be removed, with their own consent, at such times and under such regulations as he may deem expedient, to the countries so acquired, or in which the right of settlement has been so secured, and shall cause a reasonable quantity of land, not exceeding forty acres to any individual, or eighty acres to the head of a family, to be set apart for the use of such liberated persons, and shall guarantee to all such persons so removed all the civil and political rights secured to all other citizens in said countries; and for the purpose of paying the expense of the purchase of such lands or countries as aforesaid, (if the same cannot be acquired by treaty,) and the removal of said persons, the President shall use such moneys as Congress may from time to time direct, arising out of the sale of the property formerly owned by rebels, and which shall have been confiscated to the use of the United States.

SEC. 7. *And be it further enacted*, That every person embraced in any of the classes specified in section one of this act shall forever hereafter be incapable of holding or exercising any office of honor, trust, or profit under the Government of the United States.

Mr. BINGHAM. I ask the gentleman from Indiana to allow me to suggest an amendment for the purpose of making clear the legal effect of the second section of the substitute which he proposes.

Mr. PORTER. I shall be compelled to decline the request of the gentleman from Ohio. It I open the way for one I must admit all. I respectfully, therefore, decline to yield.

Mr. BINGHAM. My only purpose was to suggest an amendment for the purpose of carrying out what evidently is his object in the second section of the bill.

Mr. HICKMAN. I rise to a question of order. This is not the time to offer amendments. There has been no reconsideration, and it is not competent, therefore, for any amendment to be offered.

The SPEAKER. The chair thinks the question of order cannot be raised until some amendment is proposed to be offered.

Mr. HICKMAN. The gentleman from Ohio desired to offer an amendment, as I understood.

The SPEAKER. The chair did not so understand him.

Mr. PORTER. While I cannot give way to the gentleman from Ohio to offer an amendment, I am willing to hear his suggestion.

Mr. THOMAS, of Massachusetts. I rise to a question of order. I do not understand that it is in order for the gentleman to yield the floor, and I must object to any proceeding that is not strictly in order.

Mr. DAWES. I should like to make an inquiry of the gentleman from Indiana.

Mr. HICKMAN. I object to the gentleman from Indiana giving way for any purpose whatever, unless he does it unconditionally.

Mr. DAWES. I was merely going to make the inquiry whether I understood the gentleman from Indiana correctly, to indicate his purpose not to permit any amendment whatever to his proposition.

Mr. BINGHAM. I must object to any inquiry. If the gentleman from Indiana cannot be permitted to yield to one side I object to his yielding to the other.

Mr. THOMAS, of Massachusetts. I will merely say that I am willing that there shall be a free inquiry, if the question can be opened to all of us.

Mr. DAWES. I wish to say with the consent of my friend from Ohio—

Mr. BINGHAM. I object.

Mr. PORTER. The question having been put by the gentleman from Massachusetts, I have the right, notwithstanding it may have been out of order, to answer it. I will, therefore, say that it is not my purpose at this time to receive amendments, nor do I suppose that any amendment is in order. My purpose is, if the motion to reconsider shall prevail, to move to recommit the bill to the special committee, with instructions to report the substitute which has been read at the clerk's desk, unless it shall be the desire of the House to act finally upon it at this time. When that substitute shall have been reported, it will be within the discretion of the House to receive or refuse amendments.

Mr. Speaker, I have said that the purpose of this bill was to strike an effective blow at the leaders of this rebellion, but not at the same time, like the bill reported by the gentleman from Massachusetts, to menace or disturb the constitutional rights of the loyal citizens of the slaveholding States. I have said that its purpose was to deprive the leaders of this rebellion of their property in slaves, but at the same time not to destroy the security of the domestic institutions of any of the slaveholding States.

Mr. WICKLIFFE. Will the gentleman allow me to ask him a question?

Mr. HICKMAN. I object.

Mr. PORTER. The point of order having been made, I must decline to yield to anybody.

I do not affect to disguise, sir, that if the substitute which I have indicated shall be enacted, it will operate to emancipate a very large number of slaves. Nor, sir, do I doubt that it will quite nearly, if not altogether, destroy the institution of slavery as a mere political and governing power. Nor is that to be lamented. But it will not destroy it as a domestic institution, nor impair, in any way, the rights of the loyal people of the slaveholding States. I think there are few persons of sober judgment who will not now admit that if the institution of slavery had not been wielded, as it has been for the last few years, as a political power, it would have been far more secure, and that the interests of those who are concerned in it will be best subserved by forever withdrawing it from the fields of political strife. The emancipation of the large number of slaves who would be set free by the operation of the substitute which has been read, would not tend, if allowed to take place peacefully, to weaken or imperil the rights of loyal men in the slaveholding States to persons held to service, nor disturb their industrial interests, nor loosen the foundations of social order. A conspicuous proof of the truth of this assertion is furnished by the State of Maryland. With the exception of a partial insecurity in that part

of the State next to an extensive border upon a free State, arising from facilities of escape, there is no State in which slaves are held more securely than in the State of Maryland. Yet, according to the census of 1860, with a slave population of 87,188, she has a free colored population of 83,718. One-half, therefore, within a small fraction, of the colored population of that State are free. Yet who has ever heard that the presence of that free population has excited uneasiness or alarm among the owners of slaves, or has weakened the tenure by which slaves are held to service, or has injured the industrial interests of the State?

In 1859, when the slavery agitation was at its height, there was held in Baltimore what was distinctively known as the "Slaveholders' Convention of the State of Maryland." It was a large assemblage, and none but slaveholders were admitted as members. A resolution that the legislature of the State should be requested, at its next session thereafter, "to terminate free negroism in Maryland at an early day, and on the most advantageous terms to the white population," was defeated, and a resolution was adopted that the convention considered "any measure for the general removal of the free blacks from the State of Maryland as impolitic, inexpedient, and unequal for by any public exigency which could justify it." The report, which embraced this resolution, was prepared and presented to the convention by a distinguished Democratic statesman of the State of Maryland, now honorably representing that State in the other wing of this Capitol, [Mr. PEARCE.] I quote from the report the following significant passages:

"The existence of so large a number of free blacks in the midst of a slaveholding State, is believed to be of itself an evil, and this evil is readily perceived to be greater when it is considered that a portion of them are idle, vicious, and unproductive. *This, however, is not the case with the majority of them, and their removal would, as the committee believe, be far greater than all the evils the people of Maryland ever suffered from them.* In the city of Baltimore it is estimated that there are more than 25,000 of them, employed chiefly as domestic servants or laborers in various departments of industry. In many of the rural districts of the State, where labor is by no means abundant, they furnish a large supply of agricultural labor, and it is unquestionable that quite a large portion of our soil could not be tilled without their aid. In some districts they supply almost all the labor demanded by the farmers. Their removal from the State would deduct nearly 50 per cent. from the household and agricultural labor furnished by people of this color, and indispensable to the people of the State; would produce great discomfort and inconvenience to the great body of householders; would break up the business and destroy the property of large numbers of land-owners and land-renters—a class whose interests are entitled to as much consideration as those of any other portion of our citizens; would be harsh and oppressive to those people themselves; would violate public sentiment, which is generally not only just, but kindly, and would probably lead to other evils which the committee forbear to mention. We are satisfied that such a measure could not receive the legislative sanction, and would not be tolerated by the great body of the people of Maryland, *even with that sanction.* The committee, therefore, cannot recommend their expulsion from the State. Still more unwilling should they be to favor any measure which looked to their being deprived of the right to freedom which they have acquired by the indulgence of our laws and the tenderness of their masters, whether wise or unwise, or which they have inherited as a birthright."

This, sir, is the tribute which the slaveholders of Maryland have paid to the character of their free colored population. It is the most authoritative expression which could possibly be uttered. I cite it to show that the emancipation proposed by the substitute which I have offered would produce no rude shock of the social system of the South, would not suddenly overthrow their domestic institutions, nor be, in any way, calamitous to their agricultural and other industrial interests. The freedmen would remain, as in Maryland, to fill up, peacefully and efficiently, the several departments of industry. Traitors would, indeed, be deprived of the rewards wrong from their labor, of the wealth represented in their persons, and of the influence which that wealth confers upon them; but society would suffer no detriment.

The deductions from this example are so apposite, that I cannot forbear to allude further to the State of Maryland. The reckless agitators who desired to expel the free negroes from the State, having failed to secure the approval of the slaveholders' convention, nevertheless introduced a kindred proposition into the next legislature—that legislature so largely disloyal in its composition, that a majority, I believe, were placed under arrest by the Government, on account of their undisguised sympathy for the rebel cause. They succeeded in procuring the passage of a law, limited in its provisions to the great slaveholding counties of St. Mary's, Calvert, Howard, Kent, Baltimore, Worcester, Somerset, Talbot, Queen Anne's, Prince George's, and Charles, providing that all negroes, male and female, over twelve years of age, should hire themselves out to "industrious and respectable citizens," to labor and service by the year, and, in the event that they did not, they were to be exposed to sale to the highest bidder for the term of one year. Children from four to twelve years of age were to be bound out by the boards of commissioners, the males to serve until twenty one years of age, the females to the age of thirty. Any negro, hired or bound, who should abscond, secrete himself, or run away from service was to be sold into slavery for life, and the proceeds of the sales were to be appropriated to the school fund of the proper county for the education of white children. This infamous enactment could not make its way through the legislature, until a provision was inserted that it should not take effect in any of the counties to which it was applicable,

until approved by the people by an expression at the polls. It was, thought, however, that a sufficient bribe had been offered to the cupidity of slaveholders to induce them to make haste to put it into effect. But, sir, what was the result? The expression was taken at the Presidential election of 1860, and in but a single county did it secure the approval of a majority of the voters. In the great county of Baltimore, against a vote of 681 cast for it, 5,354 votes were cast against it. In Howard county, 55 votes were cast for it and 1,397 against it; in Kent county, 74 votes were cast for it, and 1,502 against it; and these are little less than fair samples of the whole. The law, let it be said to the honor of the people of Maryland, was repudiated by them with utter scorn and disgust. Sir, I cite this, in the face of timid and apprehensive speculation, as the result of the practical experience of a slaveholding people. It is worth a world of theoretical arguments, in reference alike to the effect of emancipation, of the presence in large numbers among the servile class of a free population of their own color, and of the results to the industry and wealth of the State. It shows how entirely groundless and visionary are the apprehensions, invented by many mistaken, though honest minds, in others of the border slaveholding States, to alarm themselves and us.

I am sure that the Representatives of the free border States would not wilfully do anything tending to trench upon the rights of their neighbors in the slaveholding States, or to inflict upon them needless injury. There are no two States, perhaps, that are more indissolubly attached to each other by the ties of intimate commercial intercourse, of kindred, and of cherished memories, than Indiana and Kentucky. We in Indiana can never forget that when in our infant territorial condition our homes were invaded by a barbarous and savage foe, and our helpless women and children were exposed to the merciless cruelties of the tomahawk and the scalping knife, the brave young men of Kentucky volunteered to flock to our aid, in order to drive back the cruel invaders. We remember, sir, the gifted and gallant Davies and the brave and intrepid Owen, who both fell at Tippecanoe, and whose remains repose within our borders beneath the soil of the battlefield. Indiana has erected a monument to their memory, and their graves will be a perpetual remembrance of the debt of gratitude which we owe to the people of Kentucky. Nor, I trust, will Kentuckians ever fail gratefully to remember that when recently their State was invaded by a foe which has imitated many of the examples of savage barbarity, coming to desolate their fields, to insult their households, and overthrow their civil institutions, the gallant soldiers of Indiana in almost countless thousands rushed to their soil to assist in rendering them protection. The graves of our gallant young men who fell at Mill Spring, at Wilcox, and at Rowlett's are a touching memorial of the hereditary friendship of the two States and the token of a brotherhood which I fervently trust in God may be perpetual.

But while we will do nothing that will invade the rights or impair the safety of the border slaveholding States, no false delicacy shall induce us to withhold the rough hand of punishment from those atrocious conspirators who have added to the ordinary guilt of treason the eternal ignominy of having conspired to overthrow a government from which they have experienced nothing but blessings, and under whose beneficent protection the people have enjoyed a degree of liberty, equality, and prosperity never before enjoyed by the most favored nations. To fail to punish them memorably would be treason to posterity.

Nor is there any punishment which we could inflict, next to the forfeiture of their lives, which would strike them so vitally as the liberation of their slaves. The ownership of slaves is, in the South, the badge of social distinction. It brings the possessor in sympathy with the governing classes. It is the basis of permanent political influence. A connection with it has enabled the conspirators—having failed with other agencies, and aiming for their own ambitious purposes to overthrow the government—to make it the instrument for spreading alarm and discontent and kindling the flames of civil war. Let them feel that they have taught instructions which, being taught, return to plague the inventor. If the detested counterfeiter forfeits the instrument of his crime—if the smuggler, engaged in unlawful trade, forfeits the vessel and cargo employed in it—if the slave-trader forfeits the ship used for the purposes of his infernal traffic, and the law sanctions and human nature applauds—with how much more justice should traitors forfeit their slaves who have made slavery the instrument of rebellion, and have brought on a war which has exhausted the treasures of the nation, broken up its commerce and industry, desolated its choicest fields and habitations, and filled it with sorrow and wailing and unutterable woe. Sir, if we should allow the red-handed conspirators who have brought on this war to revel in the rewards wrung from the labor of bondmen, the blood of the murdered brave, fallen in battle, would cry to us from the ground. Familiar though I am, from no short residence in a slaveholding State, with the feelings and prejudices of the people, I stand here amazed when I see the loyal representatives from the States of Kentucky and Missouri and Tennessee, controlled by timid apprehension, pleading, as it were, for traitors, by begging that they shall be spared from the loss of the slaves who

have not seldom been made to build the entrenchments and fortifications and to man the guns and help to fill the regiments before which their own gallant and devoted brave have fallen in the strife of battle.

Mr. PHELPS, of Missouri. I desire to propound an interrogatory to the gentleman from Indiana. He has appealed to the delegation of the State of Missouri.

Mr. PORTER. I have no indisposition to yield to the gentleman from Missouri, if it be in accordance with the pleasure of the House. I know that there is no more patriotic man in the House, and none more disposed to do whatever he thinks is best to overthrow this rebellion. I believe that he gravely errs, however, when he seeks to shelter the conspirators, engaged in attempting to overthrow the government, from the forfeiture of their slaves.

Mr. PHELPS, of Missouri. The gentleman from Indiana has correctly stated my position—that it is my desire to do whatever I can to suppress this rebellion and to restore the Union. But my judgment does not agree with his on the question of the government of the African race in this country. It is a question of subordination. I believe that the African race can better be kept in order and in subordination by having masters than they can be by being suddenly turned loose upon any community. So thought the people of Indiana. And the gentleman from Indiana has appealed to me to know why the delegation from the State of Missouri object to the passage of such a bill. Why, sir, did the people of Indiana object to this very people migrating to their State? If you emancipate the slaves in Missouri, under existing laws of that State they are to be expelled from it. Where are they to go? Not to Indiana, because the citizens of that State have said that they do not want any more free negroes. Nor do we want free negroes in Missouri.

This view of the question is entirely one of expediency. I have expressed the opinion that Congress has not the authority to confiscate property of any description. I hope to have the opportunity at some future time to address the House on this question. Because the gentleman from Indiana has now appealed to the delegation from Missouri, I desired to correct him on this point. The gentleman is not willing to receive the manumitted slave into his State. It is because they are a subordinate people and incapable of taking care of themselves as a class, that they are not wanted in Indiana. You will not receive them in Indiana, and we do not want them in Missouri.

Mr. PORTER. I propose, before I get through, to allude to the policy of Indiana; but it is enough to say here that in Indiana we have a sufficient laboring population of white people for all the purposes of agricultural and other industry. In the organization of our State government, we elected in favor of the white race by prohibiting the institution of slavery. But in Missouri, you preferred to have your resources developed and your industrial interests prosecuted by a negro population. You chose the institution of negro slavery, and you chose it, as the lawyers would say, *cum onere*—with its burdens. History had shown it never to have been a relation of undisturbed and long continuing permanence; and the lights of history were around you. You agreed, therefore, in accepting its advantages, to submit to all the inconveniences which might necessarily spring from it in the course of time and events. If, therefore, to quell present rebellion and to destroy the seeds which might germinate future trouble, it is needful to set at liberty the bondmen of traitors, the inconveniences to follow (if there be any) and the duty to be just to the freedmen, is yours, and you cannot fairly shift either the burden or the duty upon us. But I had anticipated your argument by citing the example of Maryland, where the policy both of expelling and of reducing again to servitude the free colored population has been condemned by an overwhelming popular expression, upon the express ground that they were profitably employed in the several departments of industry, and that any plausible conveniences which it might be alleged would follow their removal or re-enslavement would be far more than outweighed by great and manifest injury to the State. Missouri would not be likely to suffer worse evils than Maryland.

I propose now, Mr. Speaker, to explain very briefly the provisions of the substitute which I have offered for the bill reported by the gentleman from Massachusetts.

The first section specifies the several classes of persons whose slaves are to be emancipated. And first in the list, because most conspicuous in crime, are the officers of the army and navy of the insurgents. These, in good part, were educated at the expense of the Government, and engaged by the most solemn pledges which could bind the consciences of men to maintain with their lives the honor of its flag. They falsely deserted the Government at the earliest hour of its extremity, and hastened to lend to treason all the advantages of skill and science which their education had conferred. The heaviest calamities which the nation can inflict ought to be visited upon them, and they should not be allowed to subsist upon the labor of men who, however degraded in the social scale, are far better entitled to the enjoyment of freedom and the protection of benign laws than themselves.

The second and third specifications embrace all those who shall hold prominent official positions under the government of the so-called Confederate States, or of any State



claiming to be a member thereof. This will reach chiefly those faithless public men who, while holding and enjoying the rewards of honorable offices under the Government of the United States, were engaged in secret combination to subvert it, and were using all the advantages of official station and patronage to extend the ramifications of the wide-spread conspiracy which has ripened into rebellion and war.

The fourth and fifth specifications embrace those whose offices cannot be precisely named, but who are involved in the criminality of maintaining the machinery by which a color of nationality is given to the rebel organization, and are engaged, in great part, in enforcing obedience to laws subjecting to penalties those who hold fast to their allegiance to the Union.

The sixth specification goes an important step further. It extends to those who, in spite of the manifestation of the power of the Government to preserve itself, still shall persist, after timely and solemn warning, in remaining in arms against it and stubbornly resisting its authority. It does not embrace those who shall be in arms under conscription, or who cannot escape from service without subjecting themselves to the stern penalties of military law; but it is meant to reach those contumacious spirits who, in the face of all light and from implacable hatred of the Union, mean stubbornly to oppose it to the end. Whatever may be the number whom this specification may embrace, can the justice of the punishment be otherwise than universally approved?

The time and the occasions when the President shall issue his proclamations of warning, are left to his own discretion, in order particularly that they may be made in such manner as fairly to come to the knowledge of the persons to whom they are addressed.

The second section of the substitute is of the highest importance to an efficient bill and it supplies what I regard as a grave omission in the bill of the gentleman from Massachusetts. That bill, after declaring what slaves shall be emancipated, provides that where ever any person claiming the labor or service of any such slaves shall seek to enforce his claim, it shall be a sufficient defence thereto that he was engaged in the rebellion, &c.; and that whenever any person claiming to be entitled to the service or labor of any other person shall seek to enforce such claim, he shall before any order of surrender shall be made, establish not only such claim but also that he had not aided, assisted or countenanced the rebellion; but no penalty is prescribed against the rebel who shall persist, notwithstanding the right of the slave to be released, to hold him in servitude, nor is any remedy provided by which the slave thus held shall recover his freedom. Only the case of an escape and an attempt of the claimant to recover by legal proceedings the escaped slave, is provided for. But the substitute which I have offered, provides for the appointment of commissioners in each of the slaveholding States, whose duty it shall be to make lists of the slaves of all persons embraced in the specifications of the first section, together with the names of the masters. The lists, when prepared, are respectively to be reported to the district courts of the United States for the proper districts, and the claimants are to be notified of the filing of the lists and required to show cause why their slaves shall not be declared free.

If a claimant fails to answer to the summons, a record is made of the emancipation of his slaves, and certificates of freedom are issued to them. If he appears, it is incumbent upon him to make an affidavit, and show by *prima facie* proof, that he never has belonged to any of the classes named in the first section, and likewise to state in his affidavit that he will bear true faith and allegiance to the United States; otherwise the slaves are declared and certificated free men. But if the affidavit and proof are presented, then it is incumbent upon the attorney of the government or slaves, to overcome this proof by preponderating evidence to the contrary, and upon such preponderating evidence being adduced, the slaves are, of course, declared free, and receive certificates. These certificates are to be conclusive evidence of freedom in all courts of the States, and the United States.

The substitute offered also provides, that if a slave, emancipated under its provisions, shall be held in servitude or restraint under a claim to his service or labor, he shall forthwith be discharged upon *habeas corpus* by any judge of a United States court. In this way a sure remedy is provided to guard against a prejudice which might, in some cases, if the remedy were limited to State tribunals, be hurtful, if not fatal, to his application. Under the laws now in force, regulating the jurisdiction of the United States courts, the *habeas corpus* can only be granted where the person sought to be released is held under color of the authority of the United States. This additional legislation is therefore indispensable to the efficacy of an emancipation bill, and its omission from the bill reported by the gentleman from Massachusetts is a grave one.

While the public record and certificate of emancipation of which I have spoken, are for the benefit of the slave, entitled to liberation, they are not, however, to be indispensable to the assertion of his freedom. If, having escaped from his master, the latter seeks to enforce his claim to service, it will be incumbent on him to prove, not only a



valid claim, but that he never belonged to any of the  
tion of the substitute.

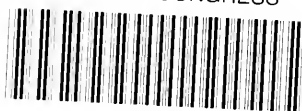
The last feature of the substitute to which I shall allude, is that which provides for the acquisition by treaty or otherwise, of lands in Mexico, Central America, South America, or the islands of the Gulf, for the colonization of the negroes emancipated under its provisions. It is designed to inaugurate a policy which will gradually and peacefully draw off from us a race which, from the prejudices of caste and the aversions of color, must always be an alien and degraded one. It is founded upon the idea of establishing our colored population in tropical homes, under circumstances which will incite them to industry, and repay temporary outlay by the solid and enduring benefits arising from commercial intercourse. Already our trade with the colony of Liberia is greater than our trade with the vast empire of Russia; our commerce with the colored race of Hayti exceeds our commerce with Russia; and if a wise and considerate policy is pursued in the practice of colonization in the tropical zone of our continent, much more important results may be safely anticipated. The policy of my own State, to which the gentleman from Missouri has alluded, has not been prompted by a mere cold and selfish prejudice against the colored race. The State has purchased lands in Liberia for such of the colored population as may choose to emigrate thereto, and has, for many years, made liberal annual appropriations to aid in the voluntary colonization of her colored inhabitants. She treats humanely those who do not choose to go; but she desires a separation of the races. The acquisition of lands in the countries mentioned will not be difficult or expensive. The inhabitants being composed of mixed races, there is no prejudice against color. Guatemala and Honduras have already signified their readiness to receive such colored inhabitants as we will send to them. The proprietors of the large grant in the province of Chiriqui are ready to receive them. Providence seems to be tempting them, by the greatest inducements, to settle in these auspicious tropical climes. And what more just—what more fit in the retributions of Providence—than that the monies derived from the confiscated property of the rebel leaders, who have endeavored to pervert the institution of slavery into an agency to subvert the government, should be the means, at once, of removing and elevating the colored race?

I have thus, Mr. Speaker, hastily glanced at the prominent features of the amendment in the nature of a substitute which it is my purpose to offer, if the motion to reconsider shall prevail. It is not, indeed, so broad and sweeping in its provisions as the original bill; but it will be much more efficient within the sphere of its application. The universal sense of the people will sanction it, as measuring out punishment where it is deserved, and inflicting a blow, at the right time and in the right place, upon the unscrupulous chiefs who have led the movement to overthrow the Government. When they shall have been brought down from the proud elevation to which their wealth and social position have exalted them, by the stern hand of an incensed Government, the deluded people, after they shall have had a brief time to recover from the wretched infatuation which has misled and excited them, will be happy to take refuge from the accumulated evils which rebellion has brought upon them, under the laws of that benign Government which so long furnished them shelter and protection; and no "star of destiny" (about which they have heard so much) will be to them so bright and auspicious as that which symbolizes to each his own State in the azure field of the old flag.

The motion to reconsider prevailed—ayes 84, nays 64; and the bill was recommitted, with instructions to report Mr. PORTER's substitute.



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